

6 OCT 2000



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Rick Bauer
FITZPATRICK CELLA HARPER & SCINTO
1900 K Street, NW
Washington, D.C. 20006-1010

In re Application of	:	
FENSTER, et al.	:	
U.S. Application No. 09/180,629	:	
PCT.No.: PCT/CA98/00247	:	DECISION ON PETITION
Int. Filing Date: 20 March 1998	:	UNDER 37 CFR 1.47(a)
Priority Date: 21 March 1997	:	
Atty. Docket No.: 1814.31	:	
For: THREE-DIMENSIONAL IMAGING SYSTEM	:	

This is a decision on applicants' "REQUEST FOR RECONSIDERATION" filed via facsimile on 10 September 1999, which is being treated as a renewed petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor, Mr. Shane Dunne. In a decision dated 09 December 1999, the "PETITION UNDER 37 CFR 1.47(a)" filed 12 November 1999 was dismissed because applicant did not provide adequate proof that the missing inventor, Shane Dunne, refused to execute the application or could not be reached after diligent effort.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. The 09 December 1999 decision indicated that petitioner has satisfied items (1), (3) and (4) above.

With regards to Item (2), the application and papers have been reviewed and have been found to be in compliance with 37 CFR 1.47(a). The steps taken by Mr. Bauer are sufficient to establish that the missing inventor, Mr. Shane Dunne, is unavailable to sign the declaration.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application will be given an international filing date of 20 March 1998 under 35 U.S.C. 363, and a date of 12 November 1999 under 35 U.S.C. 371(c) and 102(e).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.



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PCT Legal Office



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Mr. Shane Dunne
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U.S. Application No. 09/180,629
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For: THREE-DIMENSIONAL IMAGING SYSTEM

Dear Mr. Dunne:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.497.

A handwritten signature in cursive script, appearing to read "Leonard E. Smith".

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

A handwritten signature in cursive script, appearing to read "Anthony Smith".

Anthony Smith
Petitions Attorney
PCT Legal Office

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